

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 5:03-cr-00030

MICHAEL BURNS,

Defendant.

REVOCATION OF SUPERVISED RELEASE AND JUDGMENT ORDER

On the 11th day of August 2010, came the Defendant, Michael Burns, in person and by counsel, Lex A. Coleman, AFD, and also came the United States by Monica K. Schwartz, for a hearing on the *Petition for Warrant or Summons for Offender Under Supervision* submitted by the Defendant's supervising probation officer. United States Probation Officer Ken Sales, Jr., was also present at the hearing.

On December 17, 2003, the Defendant was sentenced to a term of imprisonment of 126 months to be followed by a 3-year term of supervised release. On January 24, 2006, the Defendant was re-sentenced to a term of imprisonment of 84 months to be followed by a 3-year term of supervised release. The Defendant began serving the term of supervised release on December 11, 2008. On April 26, 2010, the *Petition for Warrant or Summons for Offender Under Supervision* was filed charging the Defendant with violating certain conditions of supervised release.

At the hearing, the Court found that the Defendant had received written notice of the alleged violations as contained in the *Petition*, and that the evidence against the Defendant had been

disclosed. The Court further found that the Defendant appeared, was given the opportunity to present evidence, and was represented in the proceeding by counsel.

For the reasons stated on the record, the Court found, by a preponderance of the evidence, that the Defendant violated certain conditions of supervised release as contained in the *Petition*, specifically:

Violation of standard unnumbered condition: You shall not commit another federal, state or local crime: On February 19, 2010, a member of the Greenbrier County Drug and Violent Crimes Task Force executed a search warrant at the defendant's residence in Greenbrier County. The warrant was issued by the Greenbrier County Circuit Court based upon information that the defendant had made at least ten to twelve sales involving marijuana over the previous month. As a result of the search, the agents located approximately forty-two grams of marijuana along with various drug paraphernalia such as digital scales, ziplock baggies, and \$1,600.00 stored in a white envelope. A subsequent telephone interview between the agent and the defendant on February 26, 2010, revealed no one else lived at the residence, nor did anyone else have access to his locked residence. The defendant violated both federal and state law by possessing and distributing marijuana.

In making these findings, the Court relied upon the information contained in the *Petition* and the evidence and testimony presented at the August 11, 2010 hearing.


Having found the Defendant to be in violation of the conditions of supervised release, the Court **REVOKED** the Defendant's supervised release and, for the reasons more fully stated on the record, entered judgment as follows:

It is the **JUDGMENT** of the Court that the Defendant be committed to the custody of the Federal Bureau of Prisons for a term of **24 MONTHS**.

The Defendant was remanded to the custody of the United States Marshal.

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: August 13, 2010



IRENE C. BERGER, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA